

Executive Registry

11-5-96-5

22 JUN 1959

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Separations Regulation

1. This memorandum contains a recommendation in paragraph 5 for approval of the Director of Central Intelligence.

2. Two days after you had approved the new Separations Regulation the Supreme Court gave its opinion in Vitarelli v. Seaton reinstating a terminated Department of Interior employee. The court's language was so broad I held up publication of the regulation until we could study it.

3. Previous court decisions had indicated that a regulation once issued must be adhered to by the head of the department, and we had carefully given leeway in our earlier regulation for this rule. In Vitarelli v. Seaton the court uses the language "... scrupulous observance of departmental procedural safeguards is clearly of particular importance." This, in our opinion, is broader than a mere observance of regulatory material and we felt it essential to add words to the regulation which would assure that you could not be bound in any one case to observances that might not suit that case.

4. We propose the addition of two sentences to the first paragraph on involuntary separations, which is paragraph 6. of the Handbook under Regulation [redacted]. The text of this paragraph is set forth in the attached draft regulation with the added portions underlined. This wording has the concurrence of the Inspector General and the Director of Personnel. If you approve this the regulation will be published with this added material included.

5. I will be glad to brief you on the thinking that went into this if you wish. I recommend signature.

s/ Lawrence R. Houston

LAWRENCE R. HOUSTON
General Counsel

Attachment

OCC:LF:High

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O&2-DD/S; lcc-DCI, DDCL, ER, IG, D/Per, GC

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MEMORANDUM FOR: THE DIRECTOR

I held up publication of the Separations Regulation approved by you on 8 June 1959 pending study of the Supreme Court's opinion in the Vitarelli case. We believe the additional wording proposed in the attached is necessary to prevent being caught in a Vitarelli situation in some unusual case.

Recommend approval of the amendment.

S/ Lawrence R. Houston
LAWRENCE R. HOUSTON
General Counsel
22 June 1959
(DATE)